



STATE PROCUREMENT OFFICE
NOTICE OF REQUEST FOR EXEMPTION
FROM HRS CHAPTER 103D

13 MAR 27 P1:44

STATE PROCUREMENT OFFICE
STATE OF HAWAII

TO: Chief Procurement Officer

FROM: Attorney General
Name of Requesting Department

Pursuant to HRS § 103D-102(b)(4) and HAR chapter 3-120, the Department requests a procurement exemption for the following:

1. Describe the goods, services or construction:

Legal services to review and provide advice and counsel to the Department of the Attorney General and the Office of Information Management and Technology regarding the adequacy of a request for proposals for an enterprise resource planning system; legal advice and assistance in reviewing and preparing language for the request for proposal to address any shortcomings; interface with the consultant that prepared the initial draft of the request for proposals. It is difficult to determine the extent of counsel services required because counsel's opinion of the draft ERP RFP is unknown, not having seen the draft RFP, and yet the goal is to issue the RFP in April 2013. The scope may include services beyond counsel's initial review of the draft RFP, and it may be possible that counsel would be asked to provide legal assistance during the evaluation and contracting process, and possibly to re-draft portions of the RFP if deemed necessary. If that is the case, the Department of the Attorney General would seek approval of an extension of the contract term and an increase in fees.

2. Vendor/Contractor/Service Provider: William A. Tanenbaum, Esq., Kaye Scholer, LLP, 425 Park Avenue, New York, New York 10022	3. Amount of Request: \$ 150,000.00
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4. Term of Contract From: 28-Mar-13 To: 31-Dec-13	5. Prior SPO-007, Procurement Exemption (PE): none
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6. Explain in detail, why it is not practicable or not advantageous for the department to procure by competitive means:
Please refer to attached sheet.

7. Explain in detail, the process that will be or was utilized in selecting the vendor/contractor/service provider:

The Attorney General has interviewed several individuals from established national firms using contacts and referrals from other jurisdictions with knowledge of the area. The Attorney General has also reviewed local counsel for familiarity and expertise in this specialized area. Final selection was based upon depth and scope of experience and expertise with large scale procurements or enterprise resource planning systems, experience in reviewing and preparing requests for proposals and assisting governmental entities in evaluating responses to requests for proposals, proposed strategy and proposed fees, as well as current availability and willingness to perform the contract.

8. Identify the primary responsible staff person(s) conducting and managing this procurement. (Appropriate delegated procurement authority and completion of mandatory training required).

*Point of contact (Place asterisk after name of person to contact for additional information).

Name	Division/Agency	Phone Number	e-mail address
David T. Moore	Department of the Attorney General	586-1500	David.T.Moore@hawaii.gov

**All requirements/approvals and internal controls for this expenditure is the responsibility of the department.
I certify that the information provided above is, to the best of my knowledge, true and correct.**



Department Head Signature

MAR 25 2013

Date

For Chief Procurement Officer Use Only

Date Notice Posted: 3/27/13

Inquiries about this request shall be directed to the contact named in No. 8. Submit written objection to this notice to issue an exempt contract within seven calendar days or as otherwise allowed from date notice posted to:

state.procurement.office@hawaii.gov

Chief Procurement Officer (CPO) Comments:

The department has determined that the contractor is the most knowledgeable and qualified to represent OIMT and does not have any current conflicts vis a vis clients that may be potential prospective offerors, subcontractors, or consultants for the solicitation(s) in question. This approval is contingent upon the contractor's appropriate action and compliance with the Code of Professional Responsibility in the event an actual conflict should occur subsequent to the execution of the contract, involving any clients as prospective offerors, subcontractors or consultants for the solicitation(s). This approval is for the solicitation process only, HRS section 103D-310(c) and HAR section 3-122-112, shall apply (i.e. vendor is required to be compliant on the Hawaii Compliance Express) and award is required to be posted on the Awards Reporting System.

If there are any questions, please contact Kevin Takaesu at 586-0568, or kevin.s.takaesu@hawaii.gov.



Approved

☐ Disapproved

☐ No Action Required



4/5/2013

Chief Procurement Officer Signature

Date

6. Explain in detail, why it is not practicable or not advantageous for the department to procure by competitive means.

Time is of the essence. Although we understand OIMT has been working on the ERP for some time, OIMT first asked our Department to assist in this project in late December 2012. However, we have only relatively recently received drafts of the RFP to review. Due to the relatively late receipt of the drafts which delayed our review of the draft RFP, concerns as to the structure and contents of the request for proposals have only just recently surfaced. It is critical that the request for proposals be reviewed and issued as soon as possible. The current schedule for issuing the request for proposals is April 2013. Although the Department of the Attorney General has attorneys with knowledge and expertise in various aspects of IT and in procurement, the ERP project is unprecedented in the State. Accordingly, the Department does not have the necessary experience with ERP procurements of the scope, magnitude, and complexity of the ERP project, and the Department lacks attorneys with the level of ability required to critically review all aspects of the proposed ERP RFP.

There are only a relative handful of attorneys nationally with the breadth and depth of expertise in successful large scale enterprise resource planning acquisitions; and the potential size of the ERP procurement could exceed \$100 million. Because of the short timeline for issuing the request for proposals, publishing a notice for statements of qualifications and expressions of interest from attorneys for this very narrow subject matter expertise would not be practicable or in the best interests of the State.